

REMARKS

This responds to the Office Action mailed on July 14, 2004 and an interview with Examiners Knowlin, Examiner Matar and Mark Vatuone on September 23, 2004.

Claims 25, 32-34, 36, 38 and 39 are amended, claim 31 is canceled; as a result, claims 25-30, and 32-39 are now pending in this application.

Applicants acknowledge that an amendment to any finally rejected claim cannot be entered as a matter of right; however, claim amendments may be entered where they merely adopt examiner's suggestions; remove issues for appeal or, in some other way, require only a cursory review. Applicants believe that in view of the interview on September 23, 2004 the proffered amendments will require a cursory examination by the Examiner and have placed the claims in condition for allowance.

§102 Rejection of the Claims

Claims 25-39 were rejected under 35 USC § 102(b) as being anticipated by Eslambolchi et al. (U.S. 5,875,422).

Applicants respectfully submit that claims 25-39 should not be rejected under 35 U.S.C. § 102(b) for the reason that Eslambolchi does not disclose each and every limitation of the claim 1 of the present application.

To anticipate a claim, the reference must teach every element of the claim.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."

Claim 1 includes the following limitation:

playing a first message to the second called party;

determining a second message to send to the first called party responsive to receiving information that is associated with the second called party; and

playing the second message to the first called party, wherein information that is associated with the second called party includes information regarding a user action of the second called party.

The Office Action, in rejecting claim 1, does not point to any specific reference in Eslambolchi with respect to the above limitation. Indeed, Examiner Matar indicated at the interview on September 23, 2004 that treating the first called party in a second way had not been read by himself as responsive to receiving information that was specific to the second called party, as required by claim 1. Nevertheless, Examiner Matar suggested that less abstract terms be substituted for the phrases “first way” and “second way”.

Applicants submit that Eslambolchi does not disclose each and every limitation of claim 1, as required to support a rejection of this claim under 35 U.S.C. § 102(b).

Independent claims 38 and 39 each include a limitation corresponding substantially to the above-discussed limitation of claim 1. Accordingly, Applicants request that the above remarks and amendments contained herein also be considered when examining these other independent claims for allow ability.

As dependent claims are deemed to include all limitation of claims from which they depend, the rejection of claims 26 and 28-37 under 35 U.S.C. § 102(b) is also addressed by the above remarks, and the amendments contained herein.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 612-373-6900 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

STEPHEN MCFARLAND ET AL.

By their Representatives,

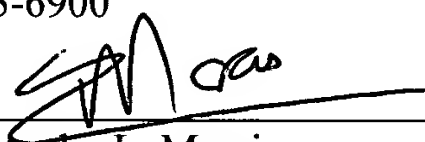
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

P.O. Box 2938

Minneapolis, MN 55402

612-373-6900

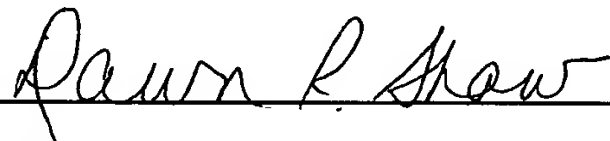
Date 11/15/04

By 
Andre L. Marais
Reg. No. 48,095

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 15 day of November, 2004.

Dawn R. Shaw

Name


Signature